

House Engrossed

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 158

HOUSE BILL 2476

AN ACT

AMENDING SECTIONS 32-1207 AND 32-1263.02, ARIZONA REVISED STATUTES; RELATING
TO DENTISTRY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-1207, Arizona Revised Statutes, is amended to
3 read:

4 32-1207. Powers and duties

5 A. The board shall:

6 1. Adopt rules not inconsistent with this chapter for the regulation
7 of its own conduct, for holding examinations and for regulating the practice
8 of dentists and supervised personnel, provided:

9 (a) Regulation of supervised personnel shall be based on the degree of
10 education and training of the supervised personnel, the state of scientific
11 technology available and the necessary degree of supervision of the
12 supervised personnel by dentists.

13 (b) Except as provided pursuant to section 32-1281, only licensed
14 dentists may perform diagnosis and treatment planning, prescribe medication
15 and perform surgical procedures on hard and soft tissues.

16 (c) Only a licensed dentist, or dental hygienist in consultation with
17 a dentist, may perform examinations, oral health assessments and treatment
18 sequencing for dental hygiene procedures.

19 2. Adopt a seal.

20 3. Keep a record of its proceedings and reports.

21 4. Establish a uniform and reasonable standard of minimum educational
22 requirements consistent with the accreditation standards of the American
23 dental association commission on dental accreditation to be observed by
24 dental schools and dental hygiene schools in order to be classified as
25 recognized dental schools or dental hygiene schools.

26 5. Establish a uniform and reasonable standard of minimum educational
27 requirements that are consistent with the accreditation standards of the
28 United States department of education or the council on higher education
29 accreditation and that must be observed by denture technology schools in
30 order to be classified as recognized denture technology schools.

31 6. Determine the reputability and classification of dental schools,
32 dental hygiene schools and denture technology schools in accordance with
33 their compliance with the standard set forth in paragraph 4 or 5 of this
34 subsection, whichever is applicable.

35 7. Determine the eligibility of applicants for examination, examine
36 those found eligible and issue licenses to those who pass the examination.

37 8. Determine the eligibility of applicants for restricted permits and
38 issue restricted permits to those found eligible.

39 9. PURSUANT TO SECTION 32-1263.02, investigate charges of misconduct
40 on the part of licensees and persons to whom restricted permits have been
41 issued.

42 10. Issue a letter of concern, which is not a disciplinary action, but
43 refers to practices that may lead to a violation and to disciplinary action.

44 11. Issue decrees of censure, fix periods and terms of probation,
45 suspend or revoke licenses, certificates and restricted permits, as the facts

1 may warrant, and reinstate licenses, certificates and restricted permits in
2 proper cases.

3 12. Collect and disburse monies.

4 13. Perform all other duties that are necessary to enforce this chapter
5 and that are not specifically or by necessary implication delegated to
6 another person.

7 14. Issue a license to an applicant who is a graduate of a dental
8 school that is not recognized by the board but who satisfies the requirements
9 of section 32-1232.

10 15. Establish criteria for the renewal of permits issued pursuant to
11 board rules relating to general anesthesia and sedation.

12 B. The board may:

13 1. Sue and be sued.

14 2. Issue subpoenas, including subpoenas to the custodian of patient
15 records, compel attendance of witnesses, administer oaths and take testimony
16 concerning all matters within its jurisdiction. If a person refuses to obey
17 a subpoena issued by the board, the refusal shall be certified to the
18 superior court and proceedings shall be instituted for contempt of court.

19 3. Adopt rules:

20 (a) Prescribing requirements for continuing education for renewal of
21 all licenses issued pursuant to this chapter.

22 (b) Prescribing educational and experience prerequisites for the
23 administration of intravenous or intramuscular drugs for the purpose of
24 sedation or for use of general anesthetics in conjunction with a dental
25 treatment procedure.

26 (c) Prescribing requirements for obtaining licenses for disabled or
27 retired licensees.

28 4. Hire consultants to assist the board in the performance of its
29 duties and employ persons to provide investigative, professional and clerical
30 assistance as it deems necessary.

31 5. Contract with other state or federal agencies as required to carry
32 out the purposes of this chapter.

33 6. Order and evaluate physical, psychological, psychiatric and
34 competency testing of licensed dentists and dental hygienists and certified
35 denturists and candidates for licensure and certification as the board
36 determines necessary.

37 C. Members of the board are personally immune from liability with
38 respect to all acts done and actions taken in good faith and within the scope
39 of their authority.

40 D. The board by rule shall require that a licensee obtain a permit for
41 the application of general anesthesia, semiconscious sedation or conscious
42 sedation, shall establish and collect a fee of not more than three hundred
43 dollars to cover administrative costs connected with issuing the permit and
44 shall conduct inspections to assure compliance.

1 E. The board by rule may establish and collect fees for license
2 verification, board meeting agendas and minutes, published lists and mailing
3 labels.

4 Sec. 2. Section 32-1263.02, Arizona Revised Statutes, is amended to
5 read:

6 32-1263.02. Investigation and adjudication of complaints;
7 subpoena authority

8 A. The board on its motion may investigate any evidence that appears
9 to show the existence of any of the causes or grounds for disciplinary action
10 as provided in section 32-1263.

11 B. The board ~~shall~~ MAY investigate a complaint signed by the
12 complainant that appears to show the existence of any of the causes or
13 grounds for disciplinary action as provided in section 32-1263. ~~If~~
14 ~~requested, the board shall inform the respondent of the name of the~~
15 ~~complainant unless the complaint involved a licensee's alcohol or drug~~
16 ~~impairment.~~ AT THE REQUEST OF THE COMPLAINANT, THE BOARD SHALL NOT DISCLOSE
17 TO THE RESPONDENT THE NAME OF THE COMPLAINANT UNLESS THE INFORMATION IS
18 ESSENTIAL TO PROCEEDINGS CONDUCTED PURSUANT TO THIS ARTICLE. Patient
19 information pursuant to subsection I of this section shall not be disclosed
20 unless that person's testimony is essential to the disciplinary proceedings
21 conducted pursuant to this section. All investigative material, including
22 dental records, is confidential and shall not be disclosed unless the
23 information is essential to the disciplinary proceedings conducted pursuant
24 to this section.

25 C. After a motion by the board or on receipt of a complaint signed by
26 the complainant, as provided in subsections A and B of this section, the
27 president of the board or the president's designee shall request either an
28 informal interview with the licensee against whom the complaint was filed or
29 motion to investigate was made or shall refer the complaint or motion to
30 investigate to an investigator appointed by the board, who need not be a
31 member of the board. The board may appoint more than one investigator. If
32 the circumstances warrant an emergency suspension pursuant to section
33 41-1092.11, the board may dispense with the procedures required by this
34 section. If the licensee against whom the complaint was filed or motion to
35 investigate was made refuses to cooperate with the board or if the license
36 has been summarily suspended pursuant to section 41-1092.11, the matter shall
37 be immediately advanced to a formal board hearing as provided in title 41,
38 chapter 6, article 10, at which time the evidence supporting the imposition
39 of disciplinary actions shall be presented and formal board action shall be
40 taken. If the licensee chooses to cooperate with the board, the procedures
41 shall be as follows:

42 1. If a complaint signed by the complainant refers to quality of care,
43 the patient may be referred for a clinical evaluation, the results of which
44 may be used for deliberation in an informal interview, for an investigator's
45 recommendation or for a formal hearing.

1 2. If an informal interview is requested, the president or the
2 president's designee shall appoint a member of the board to act as the
3 informal interviewing officer and the board shall notify the licensee in
4 writing of the reasons for the interview and the date of the interview. The
5 date of the interview shall not be less than twenty days after notification.
6 Within ninety days of appointment the informal interviewing officer shall
7 hold the interview and make a written recommendation to the board on whether
8 disciplinary action is appropriate and, if it is appropriate, the type of
9 disciplinary action that the board should take.

10 3. If the matter is referred to an investigator, the investigator
11 shall begin to investigate the charges within ten days and shall exercise all
12 the powers of the board in that investigation. Within ninety days of
13 referral, unless good cause requires longer, the investigator shall make a
14 written recommendation to the board on whether disciplinary action is
15 appropriate and, if it is appropriate, the type of disciplinary action that
16 the board should take.

17 4. In cases in which the informal interviewing officer or the
18 investigator recommends sanctions, a copy of the reports shall be made
19 available to the licensee.

20 5. The board may refer the matter to mediation if the complaint does
21 not appear to include dental incompetence, malpractice or grounds that
22 involve criminal allegations. A mediator shall not be involved in any
23 further investigation of the complaint. The board shall review and approve
24 all mediation.

25 D. Within sixty days after receipt of the written report of the
26 informal interviewing officer or the investigator, the board shall issue
27 preliminary findings based on the written report. The findings shall be made
28 as follows:

29 1. If the board finds that the evidence would, if proved true, warrant
30 suspension or revocation of a license issued under this chapter, formal
31 proceedings for the revocation or suspension of the license shall be
32 immediately initiated as provided in title 41, chapter 6, article 10.

33 2. If the board finds that the evidence does not warrant suspension or
34 revocation of a license, the preliminary order shall either dismiss the
35 complaint or order other disciplinary action pursuant to section 32-1263.01,
36 subsection A.

37 E. A copy of a preliminary order shall be given to the complainant and
38 to the licensee. Pursuant to title 41, chapter 6, article 10, the licensee
39 or applicant for licensure may move for rehearing or review.

40 F. Any person who in good faith makes a report as provided in this
41 section to the board or to any person or committee acting on behalf of the
42 board is not subject to liability for civil damages as a result of the
43 report.

44 G. The board, through its president or the president's designee, may
45 issue subpoenas to compel the attendance of witnesses and the production of

1 documents and may administer oaths, take testimony, hear proof and receive
2 exhibits in evidence in connection with an investigation initiated by the
3 board or a complaint filed with the board. In case of disobedience to a
4 subpoena the board may invoke the aid of any court of this state in requiring
5 the attendance and testimony of witnesses and the production of documentary
6 evidence.

7 H. The person in charge of any disciplinary proceeding conducted
8 pursuant to this section may require testimony to be given under oath. The
9 person in charge of the proceeding shall administer the oath.

10 I. Patient records, including clinical records, medical reports,
11 laboratory statements and reports, files, films, reports or oral statements
12 relating to diagnostic findings or treatment of patients, any information
13 from which a patient or a patient's family may be identified or information
14 received and records kept by the board as a result of the investigation
15 procedures taken pursuant to this chapter are not available to the public.

APPROVED BY THE GOVERNOR APRIL 20, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 20, 2005.

Passed the House March 8, 2005,

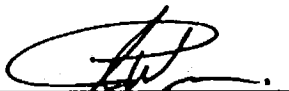
Passed the Senate April 13, 2005,

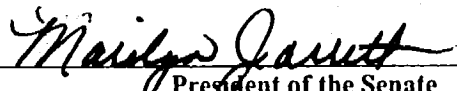
by the following vote: 56 Ayes,

by the following vote: 22 Ayes,

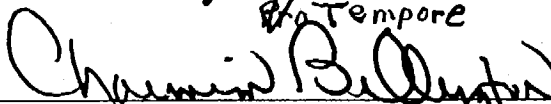
2 Nays, 2 Not Voting

5 Nays, 3 Not Voting


Speaker of the House


President of the Senate
Pro Tempore


Chief Clerk of the House



Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

14th day of April, 2005

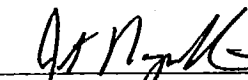
at 3:15 o'clock P. M.


Secretary to the Governor

Approved this 20 day of

April, 2005,

at 2:15 o'clock P. M.

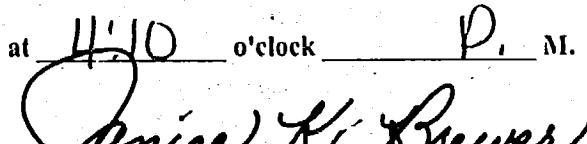

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 26 day of April, 2005,

at 4:10 o'clock P. M.


Secretary of State